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SUBJECT: IPR Update - GOI Making Steady Progress

11. (SBU) Summary: At the first meeting of the Indonesian Government's (GOI) newly-established National Intellectual Property Rights (IPR) Task Force on June 7 Indonesia National Police (INP) Chief General Sutanto and Attorney General Abdul Rachman Saleh pledged to improve IPR enforcement and Minister of Trade Mari Pangestu outlined the importance of IPR to the country's economic development. The Task Force's senior working level committee is drafting short and medium term plans of action, as well as coordinating efforts to collect better IPR enforcement data. The Ministry of Industry (MOI) optical disk (OD) factory monitoring team has registered 26 factories, provided them with source identification (SID) codes, and established a schedule of unannounced factory visits. It is also in the process of registering the remaining three factories that have been identified by the intellectual property (IP) industry. In response to GOI demands, local OD producers have voluntarily surrendered over 180 OD stampers without SID codes. Local OD producers and distributors have agreed with the GOI that, after this year, any optical disk sold without SID code can be considered a pirated copy. Local IP industry representatives report that police cooperation has improved. For the first time, police are conducting vendor and factory raids on their own initiative. Jakarta district and national police have promised to continue raids, particularly against Jakarta's most notorious malls. Police and prosecutor collaboration remains weak and there is a large discrepancy between the number of cases police turn over to the Attorney General's Office and the number actually prosecuted. Overall however, in comparison to the Special 301 Out-of-Cycle Review (OCR) in 2005, GOI officials appear more engaged, better coordinated and focused on producing results from the start of the current OCR. End Summary

12. (SBU) Office of the United States Trade Representative (USTR) Southeast Asia and Pacific Affairs Director David Katz visited Jakarta June 20-22 to discuss Indonesia's current Special 301 OCR with key GOI officials and IP industry representatives. GOI officials expressed general disappointment with Indonesia's retention on the Special 301 Priority Watch List in May. They welcomed, though, the U.S. Government's (USG) decision to conduct a second consecutive OCR. Katz informed them that the timing of the OCR would depend on GOI efforts and that it could take place as early as the end of August or September. He also stressed to GOI officials and IP industry representatives the importance of providing regular enforcement data and other information in support of the OCR.

National IPR Task Force Holds First Meetings

13. (SBU) Ministry of Justice Director General of IPR Abdul Bari Azed informed Katz on June 20 that the GOI's newly-established National IPR Task Force held its first monthly senior working level meeting in May and quarterly ministerial-level meeting on June 7. Bari reported that on June 7 Indonesian National Police Chief Sutanto and Attorney General Abdul Rachman Saleh along with other key cabinet officials pledged to improve IPR enforcement. (Note: Katz confirmed Bari's account in subsequent meetings with the MOI, MOT and police. End note.) Minister of Trade (MOT) Mari Pangestu, vice chair of the Task Force, explained the importance of IPR protection and enforcement to Indonesia's investment climate and economic development. The heads of several agencies -- Trade, Research and Technology, Economic Planning (Bapenas) and the DG for IPR -- also pledged to replace pirated software in their agencies computers with open source or legal products.

14. (SBU) According to Bari, General Sutanto promised INP support for MOI OD factory monitoring team inspections and continued police raids on pirate OD vendors and factories, with emphasis on Ratu Plaza and Mangga Dua Mall, two of Jakarta's most notorious pirate OD markets. Sutanto pointed out the challenges inherent in conducting aggressive raids against Harko-Glodok, Jakarta's primary pirate OD distribution center, noting that it risked social disorder. (Note: Harko-Glodok is located in an ethnic Chinese majority area of Jakarta and is thought to have links to organized crime. A police raid on the area several years ago led to riots, a fire, and several deaths, with police paying compensation for some of the damage. End note.)

15. (SBU) Bari, who serves as chairman of the Task Force's
JAKARTA 00008107 002 OF 005

senior working level committee, said his group would meet again in July to agree on text of short and medium term plans of action. Priorities will include OD Regulation (ODR) implementation and collecting better data and information on GOI IPR enforcement efforts, particularly from Indonesia's major urban centers (greater Jakarta, Surabaya, Medan, Bandung, Makasar and Denpasar). Bari noted that members of the senior working level committee met recently with officials at the Supreme Court to request data on civil and criminal IPR cases. According to Bari, the committee is also establishing sub-committees to focus on specific issues. One subcommittee, led by Ministry of Trade Senior Advisor Halida Miljani, would liaise with IP industry representatives and associations, and another with donors and the diplomatic community. (Note: Miljani on May 30 briefed American Chamber of Commerce IPR Committee members on the National Task Force. End note.)

OD Factory Monitoring Team Sets Schedule

16. (SBU) MOI Directorate General for Chemical, Agriculture and Forestry Based Industry Director Tony Tanduk on June 21 told Katz that the MOI has registered 26 OD factories and distributed SID codes to each of them. It is also in the process of registering the remaining three OD factories identified by the IP industry. The MOI has allocated Rp 300 million (approximately USD 30,000) per year to the OD factory monitoring team. The team, which now includes members of the INP, has set a schedule of six unannounced factory visits per month. The first three inspections occurred on June 13. While all three factories had SID codes engraved in their moulds and stampers, none were producing ODs. Tanduk remarked, somewhat sheepishly, that managers at all three factories claimed that they were waiting to ensure the accuracy of copyright documentation.

17. (SBU) Under an agreement with the MOI, owners of stampers without SIDs have agreed to turn them in to MOI by

June 15. Tanduk showed Katz one surrendered stamper and said he has collected 186 to date; he expects to receive another 100 in the coming weeks. The MOI plans to destroy the stampers at an IPR public destruction ceremony with the police sometime in July. The agreement also stipulates that, after December 31, 2006, the GOI will consider all ODS sold without SID codes as illegal pirated copies. Some owners of stampers and factories have delayed using SID codes, as it requires them to send stampers and molds to Singapore or Hong Kong for engraving. Katz suggested that Tanduk send a letter to all registered factories warning them that all their molds and stampers must include engraved SIDs codes. Tanduk agreed.

18. Tanduk provided Katz with an impressive, newly-published handbook titled "Optical Disk Regulation Implementation Guide." The hard-cover, Indonesian language publication caps a highly successful series of USAID-funded training workshops for the OD factory monitoring team. It includes relevant GOI laws and regulations, color photographs, and detailed technical and procedural guidance for the team. The technical advisor who ran the USAID project, a former Business Software Alliance (BSA) and Motion Picture Association (MPA) local representative, has recently agreed to continue his ODR work with the MOI for another year as a Department of Justice ICITAP senior technical advisor.

Police Continue Raids

19. (SBU) Jakarta Metropolitan Police (Metropolda) Special Crimes Lieutenant Colonel Police Agus Adriyanto and Chief of Investigation Umar Surya Fana on June 23 provided Katz with a spreadsheet detailing 267 IPR raids on pirate OD vendors that police conducted throughout the greater Jakarta metropolitan area since the beginning of this year. According to the report, police seized roughly 1.2 million pirated ODS, and at least temporarily detained 433. According to a local MPA representative, these figures do not include a raid on Ratu Plaza late on June 23, during which Metropolda police seized roughly 100,000 pirated ODS and arrested several people. The 267 raids also do not include West Jakarta Police's seizure on June 1 of 140 DVD burners and 55,000 pirated ODS and the arrest of two persons. Metropolda also seized 55 burners and 360,000 pirated ODS and arrested two persons in a separate raid on April 27. Based on leads from this raid, police raided a

JAKARTA 00008107 003 OF 005

small distribution warehouse where they seized 30,000 pirated ODS and arrested another two individuals.

110. (SBU) Umar explained that police had investigated and referred all 267 cases to the AGO. He also showed Katz a wall chart indicating that 16 individuals remained in Metropolda's temporary detention facilities on IPR-related charges. Umar could not say how many of the 433 individuals arrested in 2006 were transferred to AGO holding facilities along with their case files. He complained that once police sent cases to the AGO, it was very difficult to obtain information on their outcomes from the AGO or courts. Katz suggested that joint workshops with the police, AGO and courts on IPR evidence collection, investigations and prosecutions might facilitate greater cooperation between these groups. Both Agus and Umar welcomed the idea.

111. Katz congratulated Agus and Umar on their successes and noted that reports of their actions had been received in Washington. He encouraged them to continue their efforts, and suggested particular attention be paid to Jakarta's most notorious malls. Umar said his unit would remain focused on Ratu Plaza, Mangga Dua and Harko-Glodok, but added that raids on Harko-Glodok posed risks. On June 22 some Jakarta police ran into physical resistance when they attempted to conduct a limited raid on Harko-Glodok's street vendors, located some distance away from its main wholesale

distribution center.

¶12. Umar, a son-in-law of Indonesia Anti-Corruption Chairman Taufikurrahman Ruki, said that support for Metropolda's efforts came directly to him from General Sutanto. He provided Katz with a tour of Metropolda's halls and warehouse filled with growing sacks of seized pirated ODs and DVD burners. Sometime in July, the police plan to hold a public destruction ceremony with support from the Motion Pictures Association (MPA). An investigator for a local law firm, who works part-time for MPA and supports Metropolda's raids, has recently accepted a second DOJ ICITAP one-year senior technical advisor position to support INP IPR enforcement efforts.

¶13. (SBU) In a separate meeting on June 23, INP Headquarters Special Economic Crimes Colonel Police Rycko Amelza Danniell told Katz that INP Police Chief General Sutanto has ordered his unit to work with North Jakarta police units to develop a plan for shutting down Harko-Glodon. Rycko added that his unit would also begin collecting data from police raids, seizures and arrests from major urban centers across Indonesia.

AGO Remains Weak But Interested

¶14. (SBU) Although he did not provide detailed information, AGO Acting Deputy Attorney General for Special Crimes Abdul Hakim Ritonga on June 23 informed Katz that the Jakarta AGO had prosecuted roughly a dozen IPR cases over the past year. He admitted that until recently IPR has not been a high priority. He suggested the AGO could raise the profile of IPR by including it under the purview of the AGO's newly created Transnational Crimes Task Force. Katz remarked that detailed data on IPR prosecutions and convictions throughout Indonesia would be very useful for the Special 301 decision-making process. Ritonga said that he could gather such information, provided the U.S. Embassy formally requested it.

¶15. (SBU) Katz showed the Ritonga Metropolda's data on raids, arrests and investigations since the beginning of this year, and asked if the AGO could tell us what happened with each case. Ritonga said it was possible, but warned that, while police have recently referred many IPR-related case files to the AGO, their cases were often poorly investigated, lacked sufficient evidence, or were intended to simply to boost police arrest numbers and impress superiors. Ritonga said he would support joint workshops with the police, AGO and courts on IPR evidence collection, investigations and prosecutions.

Draft Customs Law Includes Ex Officio Powers

¶16. (SBU) Ministry of Finance Directorate General of Customs IPR Unit Chief Okto Iranto on June 22 told Katz that the GOI's new draft customs law contained the same ex officio

JAKARTA 00008107 004 OF 005

powers contained in the existing 1995 customs law. The new customs law, however, is intended to resolve court jurisdiction issues that held up the issuance of implementing regulations for the ex officio power. Okto said that Indonesia Customs is eager to obtain the new authority, as it will enable customs officers to detain temporarily suspected shipments of pirate or counterfeit goods. He added that Customs has consulted closely with local IP industry representatives on the status of ex officio powers in the draft law, including the American Chamber of Commerce IPR Committee on May 2. The issue was also discussed throughout a May 16-18 USPTO-Indonesia Customs workshop in Jakarta that included presentations and participation by senior Customs officials and IP industry representatives. Okto said that the GOI has set a deadline

by the end of this year to enact the new Customs law and accompanying implementing regulations.

Other GOI Efforts

¶17. (SBU) During their June 21 meeting, Bari informed Katz of several other ongoing IPR related efforts within his office. The Directorate of IPR is cooperating with the Japan International Cooperation Agency (JICA) in conducting 15 IPR public awareness seminars throughout Indonesia this year for officials, academics, students and the press. DG IPR also collaborated with the European Commission-ASEAN IPR Co-operation Program] in holding a May 22-23 workshop in Jakarta on civil and criminal court proceedings. Lastly, DG IPR Abdul Bari Azed on June 6 gave opening remarks at the opening of a BSA representative office in Jakarta.

Amcham Members See Improved Enforcement and Cooperation

¶18. (SBU) At a June 22 meeting with Katz, Amcham IPR Committee members were in agreement that police were improving IPR enforcement and cooperation. An MPA representative said that, for the first time, police were conducting raids on their own initiative and were no longer requiring formal complaints to act. She attributed this to General Sutanto's December 2005 instruction to district police chiefs ordering them to step up IPR enforcement activities, particularly against pirated ODs. The MPA representative noted that Jakarta police raids on Ratu Plaza and Mangga Dua Mall, however, stopped after Indonesia was retained on the Priority Watch List in May, but that police continued raids at other locations across the city.

¶19. (SBU) A representative of a major U.S. cigarette manufacturer said that he has received very good cooperation from police and customs over the last year in seizing large shipments of counterfeit cigarettes. In these cases, customs is able to make seizures without ex officio powers because the counterfeit cigarettes have counterfeit excise stickers that violate Indonesia's tax laws. He added that his company was considering a plan to provide equipment and training to some police units. He noted that one unit he works closely with in the Riau Islands has 70 officers but severely lacks other resources: it has only two vehicles, one telephone line, no internet, and a yearly operating budget of USD 12,000.

¶20. (SBU) A Business Software Alliance (BSA) representative added that police also lack resources to move and properly store cumbersome and sensitive optical disk production machinery seized during raids. Police are scared that if the machinery is damaged while under their custody, the courts may rule that they pay compensation to the owners. Consequently, police customarily seal OD machinery with police tape at factories, and it is often just a matter of days before pirates break the seals move the machinery or simply begin operating again.

Comment

2.* (SBU) The GOI continues to make steady progress on IPR, and high level backing from the Police Chief and Attorney General bodes well. Closer cooperation between the MOI, police and AGO will be important for ensuring effective factory monitoring and greater prosecutions of pirates. Our new senior technical advisors at the MOI and police, and a new Embassy resident legal advisor with considerable IPR experience, should provide valuable new tools for assisting

JAKARTA 00008107 005 OF 005

the GOI with these challenges.

¶22. (U) USTR Director David Katz has cleared this cable.

